



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,497	12/21/2001	Bradley E. Goff	22062-3	2014

7590 09/07/2005

Woodard, Emhardt, Naughton, Moriarty and McNett
Bank One Center/Tower
Suite 3700
111 Monument Circle
Indianapolis, IN 46204-5137

EXAMINER

BUI, LUAN KIM

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,497

Applicant(s)

GOFF, BRADLEY E.

Examiner

Luan K. Bui

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13, 14 and 17-28 is/are rejected.
- 7) ☒ Claim(s) 10-12, 15, 16, 29 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 13 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Menendez (4,694,961). Menendez discloses an organizer (10) comprising an organizer body having an upper frame member (16) removably connected to a lower frame member (18). The upper frame member providing a storage unit (15) and the lower frame member providing a second storage unit (19) having a plurality of compartments. The storage unit of Menendez is inherently capable of retaining a plurality of pill bottles in fixed locations and the second storage unit is also inherently capable of receiving a supply of pills to be taken on a periodic basis. Menendez further discloses a handle (12) connected to the organizer body (Figures 1-4).

3. Claims 1-5, 18-20, 22-25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Tielker et al. (5,050,756; hereinafter Tielker'756). Tielker'756 discloses an organizer (A, B, C) comprising an organizer body (1, 4, 8-10) having an upper frame member (1, 4, 8-10) removably connected to a lower frame member (1, 4, 8-10) (Figure 8). The upper frame member providing a storage unit/bottle storage unit (8-10) and the lower frame member providing a second storage unit/pill storage unit (8-10) having a plurality of compartments. The storage unit of Tielker'756 is inherently capable of retaining a plurality of pill bottles in fixed locations and

Art Unit: 3728

the second storage unit is also inherently capable of receiving a supply of pills to be taken on a periodic basis.

As to claims 4, 5 and 19, the second storage unit/pill storage unit comprises a plurality of individual trays (4) providing the plurality of compartments (8-10).

As to claim 20, the individual trays (4) are removable from the lower frame member of the organizer body (Figure 1).

As to claims 22 and 27, Tielker'756 discloses the lower frame member a plurality of tray openings (when the first tray B and the third tray B are inserted into the lower frame member A, the spaces between the first and third trays and between the third and an end wall of the lower frame member define the plurality of tray openings).

As to claim 23, the upper frame member includes a plurality of openings defined by inserts (8-10).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-9, 17, 21-23 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tielker et al. (5,050,756; hereinafter Tielker'756) in view of Official Notice and Keffeler (5,011,018). Tielker'756 discloses the organizer (A, B, C) as above having all the limitations of the claims except for each individual tray comprises a removable lid. Official

Art Unit: 3728

Notice is taken of the old and conventional practice of providing a tray and a removable lid attached to the tray for better protecting the contents disposed within the tray. Keffeler teaches a plurality of individual trays (14) with each tray includes a removable lid (16). It would have been obvious to one having ordinary skill in the art in view of Official Notice and Keffeler to modify the trays of Tielker'756 so each tray includes a removable lid for better protecting the contents disposed within the tray.

As to claims 7, 22, 23 and 27, when the first tray B and the third tray B are inserted into the lower frame member A, the spaces between the first and third trays and between the third and an end wall of the lower frame member define the plurality of tray openings. To the extent that Tielker'756 fails to disclose a plurality of tray openings in lieu of one large opening for holding four trays B, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the large opening of Tielker'756 so it comprises a plurality of smaller openings or by inserting the first and the third trays into the large opening as discussed above because the selection of the large opening or many smaller openings would have been an obvious matter of design choice inasmuch as the resultant structures will work equally well.

As to claim 8, the upper frame member includes a plurality of openings defined by the receptacles (8-10).

As to claims 9 and 28, the tray comprises a plurality of receptacles (8-10) with different sizes of openings which are considered equivalent to a plurality of subcompartments.

6. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tielker et al. (5,050,756; hereinafter Tielker'756) in view of Kent (6,062,389) or Gottlieb (6,269,949).

Art Unit: 3728

Tielker'756 discloses the organizer (A, B, C) as above having all the limitations of the claims except for the organizer body comprises a handle and the handle being pivotally connected to the upper frame member with the handle pivotal between an upright position for carrying the upper frame and a lateral position facilitating a nestable relationship. Kent teaches a container (10, 20) having a handle (80) and the handle is pivotally connected to the container with the handle pivotal between an upright position for carrying the container and a lateral position facilitating a nestable relationship (Figures 1-2). Gottlieb shows container (10, 12) having a handle (14) and the handle is pivotally connected to the container with the handle pivotal between an upright position for carrying the container and a lateral position facilitating a nestable relationship (Figures 1-5). It would have been obvious to one having ordinary skill in the art in view of Kent or Gottlieb to modify the organizer body of Tielker'756 so it includes a handle and the handle is pivotally connected to the upper frame member with the handle pivotal between an upright position for carrying the upper frame and a lateral position facilitating a nestable relationship to facilitate carrying the organizer body.

Allowable Subject Matter

7. Claims 10-12, 15, 16, 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3728

Response to Arguments

Applicant's arguments with respect to 4/8/2005 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant's arguments with respect to non-analogous art in the remarks are noted. They are not persuasive because the non-analogous art rejection is only applied to the obvious rejection not anticipated rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (571) 272-4552. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Ms. Errica Miller at (571) 272-4370.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 306-5648. Facsimile correspondence for this application should be sent to (571) 273-8300 for Formal papers and After Final communications.

lkb
September 5, 2005



Luan K. Bui
Primary Examiner